

Application No.: 10/646,994
Amendment

AMENDMENTS TO THE DRAWINGS

Please ADD NEW Figures 10 and 11, which are included on the two sheets of drawings attached hereto that are labeled in the top margin as "New Sheet".

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R E M A R K S

Reconsideration of the application in view of the above amendments and the following remarks is respectfully requested. In the above amendment, claims 1 and 18 are being amended and no claims are being canceled or added. Therefore, claims 1-28 remain pending in the application.

Additional Supplemental IDS Filed

Applicants mailed another Supplemental IDS for this application to the USPTO on September 29, 2004. Applicants request that the Examiner consider the references listed therein and return a copy of the signed Form PTO-1449 with the next paper for this application.

Objections to the Drawings

The Examiner objected to the drawings because the feature "an optical reflector" specified in claim 17 is allegedly not shown in the drawings. Applicants respectfully traverse this objection.

In the above amendments, Applicants have added new FIGS. 10 and 11 and three new paragraphs to the specification. New FIGS. 10 and 11 are attached hereto and labeled in the top margin as "New Sheet". Applicants submit that these new figures and paragraphs show and describe the feature "an optical reflector" specified in claim 17. Specifically, as shown and described the repeater station 226 allows the free-space link 222a to be diverted around a natural or manmade obstacle, such as the mountain 228, and therefore is an optical reflector.

The addition of new FIGS. 10 and 11 and the three new paragraphs is fully supported by the application as filed and therefore does not constitute new matter. Specifically, the

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present application, as well as its parent application, incorporate by reference U.S. Application No. 09/065,685, filed April 24, 1998, which issued as U.S. Patent No. 6,239,888 (the '888 patent). New FIGS. 10 and 11 are supported by FIGS. 1 and 4 of the '888 patent. Furthermore, the three new paragraphs are supported by col. 6, lines 23-37, col. 7, lines 16-24, and col. 9, lines 3-26 of the '888 patent.

Double Patenting Claim Rejections

Claims 1-28 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-38 of U.S. Patent No. 6,763,195 to Willebrand et al. (the parent application hereto). Applicants respectfully traverse this rejection.

Applicants request that this rejection be held in abeyance until the rejections under 35 U.S.C. 102 have been overcome so that the final form of the claims can be considered with respect to this rejection.

Claim Rejections under 35 U.S.C. § 102

The Examiner rejected claims 1-28 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,323,980 to Bloom ("Bloom"). Applicants respectfully traverse these rejections.

With respect to Applicants' claim 1, the Examiner asserts that Bloom's RF transceiver 13 corresponds to Applicants' recited "radio frequency portion". Applicants respectfully disagree with this assertion. In order to further clarify differences between Bloom's RF transceiver 13 and Applicants' claim 1, Applicants have amended claim 1 to recite that the radio frequency portion "can serve as a backup communication

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path for the at least one laser portion". This amendment is supported by Applicants' specification in several locations, such as for example, page 10, lines 23-25, page 41, lines 13-17, and the Abstract, line 6. Applicants have amended independent claim 18 in a similar manner.

The rejection of claim 1 should be withdrawn because Bloom's RF transceiver 13 does not serve as a backup communication path for the optical transceivers 10. Specifically, Bloom's RF transceiver 13 only provides communication with users within the area of a base station. For example, see Bloom's FIGS. 1A, 1B and 1C and Bloom's statement that:

"Radio transceiver 13 receives electrical signals through RF receive antenna 20 that correspond to radio waves transmitted from radio transmitters of users 4."

(Bloom, col. 5, lines 42-45; See also Bloom, col. 2, lines 19-21; col. 3, lines 15-35; col. 6, lines 8-11; col. 7, lines 18-32).

Bloom's RF transceiver 13 does not provide communications with other base stations such as are typically located on other buildings. Instead, Bloom's optical transceivers 10 provide communications with the other base stations. For example, see Bloom's FIGS. 2 and 5 and Bloom's statement that:

"The base stations are interconnected by laser communications transceivers that comprise the crosslink function between base stations. . . . The optical transceivers provide a means for cross linking data from building to building such that the buildings are networked together."

(Bloom, col. 7, lines 19-28; See also Bloom, col. 2, lines 9-12).

Because Bloom's RF transceiver 13 does not provide communications with other base stations, the RF transceiver 13 does not "serve as a backup communication path" for the

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optical transceivers 10, as is now recited in Applicants' amended independent claim 1. This means that Bloom's RF transceiver 13 does not correspond to Applicants' claimed "radio frequency portion" and the rejections of amended independent claims 1 and 18 must be withdrawn. Furthermore, the rejections of dependent claims 2-17 and 19-28 should also be withdrawn for at least these same reasons.

In addition, Applicants assert that it would also not be obvious to somehow modify Bloom's system to have an RF backup communication path for the optical transceivers 10. This is because there would be no motivation for a person of ordinary skill in the art to make such a modification because Bloom indicates that attenuation of the optical path is not a problem. Specifically, Bloom states:

"Applicant has demonstrated that at these distances atmospheric effects attenuating laser beams are not a serious problem."

(Bloom, Abstract, lines 11-13; See also Bloom, col. 2, lines 13-16).

Bloom's teaching that atmospheric effects attenuating laser beams are not a serious problem teaches against the need for an RF backup communication path because Bloom does not expect the optical path to fail. As such, a person of ordinary skill in the art would not attempt to make a modification to add an RF backup communication path.

No Fees Believed to be Due

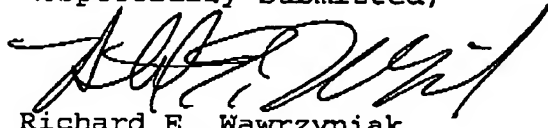
No extra claims fee are believe to be due.

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C O N C L U S I O N

Should there be any outstanding issues that require adverse action with respect to this amendment, it is respectfully requested that the Examiner telephone Richard E. Wawrzyniak at (858)552-1311 so that such issues may be resolved as expeditiously as possible.

Respectfully submitted,



Richard E. Wawrzyniak
Reg. No. 36,048

Dated 11/24/04

Attachments: Two sheets of drawings labeled in the top margin as "New Sheet" which include new FIGS. 10 and 11.

Address all correspondence to:
Richard E. Wawrzyniak, Esq.
FITCH, EVEN, TABIN & FLANNERY
120 So. LaSalle Street, Suite 1600
Chicago, Illinois 60603
Customer No. 22242
Telephone No.: (858) 552-1311
Facsimile No.: (858) 552-0095